

COPYRIGHT

What you need to know

COPYRIGHT WHAT IS IT?

The right to control one's creation

Copyright is a form of protection provided by the laws of the United States to the authors of "original works of authorship." The 1976 Copyright Act generally gives the owner of the copyright the exclusive right to do and to authorize others to reproduce and distribute copies of the work; perform or display the work publicly; and prepare derivative works based upon the work.

It is illegal for anyone to violate any of the rights provided by the copyright code to the owner of the copyright. These rights, however, are not unlimited in scope. One major limitation is the doctrine of fair use, a legal principle that provides certain limitations on the exclusive rights of the copy right holders to allow limited use of a copyrighted work without permission for educational purposes. Fair use is important to the educational community because it provides substantial-but not unlimited-latitude to educations.

Before beginning to copy at will you should recognize that certain criteria determine whether use of an author's work is allowed under "Fair Use.

The following four factors must be considered.

FAIR USE--Four Factors

Limitation on rights of owner

1. *The purpose and character of the use.*

?? Is your use non-commercial?

?? Is your use for purposes of teaching?

2. *The nature of the copyrighted work.*

?? Is the original work mostly fact as opposed to mostly fiction or opinion?

?? Has the original work been published?

3. *The amount and substantiality of the portion used in relation to the copy righted works as a whole.*

?? Are you copying only a small part of the original work?

?? Are you copying only a relatively insignificant part of the original work as opposed to the most important part?

4. *The effect of the use on the potential market value of the copy righted work.*

?? Does your conduct leave unaffected any profits that the copyright owner can make?

?? If my use is for teaching and is non-commercial, do I need to meet the other three “fair use” factors?

?? The fair use analysis must consider all four factors; the evidence from each factor weighs into the ultimate finding of infringement of copyright.

?? To avoid confusion by educators, Congress published “safe harbor” guidelines for educational material. While these guidelines are not a part of the law they represent the minimum standards for fair use of copyrighted materials in the classroom.

GUIDELINES

Printed Material

Educators may make a single copy for research or use in teaching of:

?? *A Chapter from a book*

?? *An article from a periodical or newspaper*

?? *A short story, essay or poem*

?? *A chart, graph, diagram, drawing, or cartoon*

Syndicated cartoons may not be copied. Use the cartoon in its original format. Don't copy it, resize it, or make it into a transparency, do not scan it for conversion to a file on the computer. Just use it as it comes to you. The newspaper funny pages...just bring in the section and hold it up to the class. It can be put under a document camera. Don't copy it, unless you get permission from the publisher and/or author.

Educators may make multiple copies for classroom use provided the copying meets the test of:

?? Brevity

?? Spontaneity

?? Cumulative Effect

BREVITY

The more material you take, the less likely it is that your use will be a fair use. Some guidelines include:

?? A complete poem of less than 250 words, printed on no more than two pages; or an excerpt from a long poem, but not more than 250 words.

?? A copy righted article, story, or essay of less than 2500 words or an excerpt of not more than

?? 1,000 words, from a larger printed work or 10% whichever is less.

?? One chart, diagram, cartoon (syndicated cartoons may not be copied), or picture per book or periodical issue.

?? Special works combining prose, poetry and illustrations, limited to no more than 10% of the total.

SPONTANEITY

?? The copying should be at the stance and inspiration of the individual educator, and the decision to use the work and the moment of use are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

CUMULATIVE EFFECT

?? Copying is made for one course.

?? The same item cannot be reproduced for more than one term.

?? No more than nine instances of copying per class during a term.

?? There is only one work from a single author.

?? No more than three authors from a collective work.

?? The copying does not replace an anthology or collective work.

?? No copying of “consumable” works.

?? Copying should not simply substitute for purchase of original materials.

?? No charge is made to students beyond the actual cost of photocopying.

?? All of the preceding must bear the copyright notice.

I have created a great collection of poem excerpts; can I file it away and make copies every year for my English classes?

Educators who recycle their copies material automatically place themselves outside the protection of “Fair Use,” If you wish to use copied materials for a longer period of time; you need to obtain permission from the copyright holder.

GUIDELINES

Music Material, without having secured permission educators may:

- ?? Make a copy of a lost page in an emergency.
- ?? Make one copy per student of up to 10% of a musical work for class study as long as that 10% does not constitute a performable unit.
- ?? Make a single recording of a student performance for study and for the archives.
- ?? Make a single recording of aural exercises or tests using copyrighted material or replace library copies when not available for purchase.
- ?? An educator may not:
 - ?? Copy material to avoid purchase
 - ?? Copy music for any kind of performance.
 - ?? Copy to create anthologies or compilations.
 - ?? Reproduce material designed to be consumable.

GUIDELINES

Videotaping

- ?? The media specialist, at the request of the educator wishing to use it, should do taping at the school location.
- ?? May be shown once in the ten consecutive school days following broadcast in the course of a relevant teaching activity.
- ?? A program may not be recorded more than once for an educator regardless of rebroadcast.
- ?? Must be used for direct instruction and not entertainment.
- ?? Tape must be destroyed within 45 calendar days of its taping.
- ?? Can't record a program off of cable television at home? My school does not have cable.
- ?? No – You may “time-shift” playing of cable programs to a more convenient show time, if your school subscribes to the service. But, you violate copyright by recording off-air programs on a pay medium your school has not purchased.

- ?? Programs recorded from instructional television channels (channel's 7, 9, & 11) may typically be recorded and retained longer than the 45-day restriction for commercial broadcast programming. Restrictions are printed in the quarterly ITV program guide.

USE OF PRIVATELY OWNED OR RENTAL VIDEOS

- ?? Educators may purchase or rent a videotape, which bears a "For Home Use Only" message, and use it in an educational setting provided:
- ?? Video is shown in the course of face-to-face teaching activities in a classroom.
- ?? Video is directly related and of material assistance to the curriculum and lesson objectives, not for entertainment.
- ?? Video has been approved through a school level review process.
- ?? The video-rental store does not have the right to give you permission to copy or use a videotape that violates copyright principles. Apply the "Fair Use Doctrine."

My students have worked so hard this term; can't I reward them by showing a moving during class just for fun?

No – District Policy prohibits the showing of movies for entertainment purposes. Copyright laws would also be violated if movie is now shown in the course of face-to-face teaching activity.

NOTE: Parental notice is required when showing any movies with a rating other than "G". Rated material must be age appropriate. No "R" rated movies or clips may be shown. Refer to District Policy regarding Movies and Videos for further details.

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INTERNET

Don't believe the myth that if you find something on the Internet, it's okay to copy it and use it as you wish without permission. All standards of using copyrighted materials from traditional mediums must be applied to materials obtained through the Internet. Just because we have the technology to copy something on with our computer equipment, doesn't give us the right to do it!

MULTIMEDIA

A multimedia project is considered to be any project that encompasses several media elements. Educators may:

- ?? Use portions of lawfully acquired copyrighted works in the course of face-to-face instruction.
- ?? Use any original multimedia project that contains copyrighted works for up to two years.
- ?? The following limits apply to the usage of copyrighted material in a multimedia project:
 - ?? Motion media- up to 10% of three minutes whichever is less.
 - ?? Text material – up to 10% or 1,000 words, whichever is less.
 - ?? Music lyrics and Music Video – up to 10% but no more than 30 seconds from an individual musical work.
 - ?? Illustrations and photographs – no more than five images by an artist or photographer.
 - ?? Multimedia programs may not be duplicated, sold or placed on a network with unlimited access.

COMPUTER SOFTWARE

Computer software receives its greatest protection through licensing agreements not copyright. Be aware that every software program has its own set of restrictions. Get in the habit of reading all the fine print that comes on the outside of the computer program before opening the package. Usually, just opening the package implies that you have read, understood, and agree to the terms of the license. It is your responsibility to ensure that all programs running on your computer are properly licensed.

OBTAINING PERMISSIONS

Get it in writing

Each member of the education community must learn to apply the four factors and guidelines to make sound judgments about the use of copyrighted work. Invariably, each of us will encounter situations where we need to obtain permission from the copyright owner to use their work. Good practice requires that you have written documentation of permission given.

POINTS OF INTEREST

Copyright

- ?? When an employee has created a work within the scope of his employment, the work is considered a “work made for hire,” and the employer – not the creator – owns the work.
- ?? Always assume that material is copyrighted. A creative work is protected under the law at inception and does not require a copyright notice in order to be protected.
- ?? Copyright protects works that have been “fixed in a tangible form of expression,” therefore ideas, concepts, or principles cannot be copyrighted. Similarly, works consisting entirely of information that is common property or fact is not copyrightable.
- ?? Always give proper credit when using copyrighted material.
- ?? Fear of getting caught isn’t the only reason to obey the law. School has a special responsibility to set an example of obedience to the law.

Published by the Davis School District and the Utah State Office of Education in conjunction with the Office of Policy and School Law. May, 2001

Internet Resources for Copyright.

<http://www.copyright.com/default.asp> The Copyright Clearance Center

<http://www.li.suu.edu/library/personal/ONEILLB/copyright.htm> SUU’s Copyright Center in Cedar City.

<http://www.eff.org/pub/CAF/law/multimedia-handbook> AN INTELLECTUAL PROPERTY LAW PRIMER FOR MULTIMEDIA AND WEB DEVELOPERS

<http://lcweb.loc.gov/copyright/online.asp/> The US Copyright Office. See also...

<http://www.loc.gov/copyright/>

<http://memory.loc.gov/ammem/ndlpedu/resources/cpyrt/index.html> The Fair Use Guideline, Library of Congress

<http://fairuse.stanford.edu/> Stanford University—Fair Use Guidelines.